

REMARKS**Introduction**

Receipt of the non-final Office Action mailed April 14, 2008 is acknowledged. The claims presented for reconsideration are claims 1-20.

With the present Amendment and Response, Applicant amends claim 1 to incorporate the limitations of claims 3, 16 and 20, each of which are currently cancelled. Support for the amendments to claim 1 can be found throughout the specification, including paragraphs [0011], [0015] and [0022]. Claims 4 and 17 are amended to recite the units as suggested by the Examiner. Claims 8, 9 and 11 are amended to provide antecedent basis for the food additive of currently amended claim 1. Claim 12 is amended to recite the function of the second segment. Support for the amendment to claim 12 is found throughout the specification, including paragraph [0022]. Other claims have been amended in formal regards.

No new matter is introduced with this amendment and response. Entry of this amendment and favorable reconsideration are earnestly solicited.

Claim Objections

Claims 4 and 17 stand objected to due to informalities with respect to the range of water and oxygen permeability. Applicant currently amends claims 4 and 17 as suggested by the Examiner. As a result, Applicant respectfully submits that this objection is overcome and requests that this objection be withdrawn.

Rejection of Claims 1-20 Under 35 U.S.C. §103(a)

Claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wielockx et al. (EP 0878133) in view of Huchel (US 6,250,468) and Davis (US 4,949,529). The Examiner relies on Wielockx for its alleged disclosure of a tubular food casing with an inner barrier carrying an aroma and flavor substance such as a spice or seasoning. The Examiner notes that Wielockx does not disclose a casing having an outer and inner tubular casing, a casing made of a polymer material having low permeability properties, or the recited oxygen and water vapor permeability. The Examiner contends, however, that utilizing the optimum degree of oxygen

and water vapor permeability would allegedly require nothing more than routine experimentation by one of ordinary skill in the art in the absence of unexpected results. The Examiner further contends that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the alleged sausage casing as disclosed by Wielockx, with the binding layers at a certain point to impart improved properties to the package as alleged to be disclosed by Huchel and Davis. Applicants respectfully disagree.

That is, the claimed invention relates to a tubular food casing from which constituents can be transferred to food situated therein (see claim 1). The casing comprises an outer tubular barrier casing which, in turn, comprises a seamless single-layer or multilayer casing made of polymer material which exhibits a low permeability to water vapor, oxygen and aroma substances (see claim 1). As a result, the outer tubular layer effectively prevents the encased food from drying out during storage (see claim 1). The casing further comprises an inner tubular casing which provides intermediate support and transfer for at least one food additive chosen from a transferable colorant, aroma substance, flavor substance, spice extract, liquid smoke, dry smoke, natural aroma, synthetic aroma, and a flavor enhancer.(see claim 1). As explained below, Wielockx does not teach or suggest a food casing having an inner tubular casing which provides intermediate support and transfer for at least one food additive.

The primary reference, Wielockx, on the other hand, is directed to cellulose fibrous reinforced food packaging films, including tubular food casings having cling/adherence properties which are especially useful in packaging dry or semi-dry sausage or summer sausage products (emphasis added; see column 4, lines 16-20). The casings disclosed by Wielockx were developed to address the alleged need for modified fibrous type food casings particularly for dry and semi-dry sausage products which could offer a better balance between adherence/cling and release properties (see column 3, lines 51-54). Thus, Wielockx addresses a completely different problem from that of the currently claimed food casing. As a result, one of ordinary skill in the art would not have even considered the teachings of Wielockx in developing a tubular food casing capable of transferring food additives because not only does Wielockx attempt to solve a different technical problem but Wielockx does not teach or even suggest a food casing having an inner tubular casing, much less one capable of support and transfer of food additives. Applicant

respectfully submits that the rejection of claims 1-20 based on Wielockx should be withdrawn for at least this reason.

As noted above, the Examiner relies on Wielockx for its alleged disclosure of a tubular food casing with an inner barrier carrying an aroma and flavor substance such as a spice or seasoning (see paragraphs 5 and 15 of the Office Action dated April 14, 2008). Applicant respectfully notes that Wielockx, in fact, does not teach or even suggest a food casing comprising the outer casing and inner casing (or second segment - claim 12), much less a food casing that comprises an inner casing (or segment) capable of supporting and transferring food additives to an encased meat. Instead, the casings of Wielockx comprise a tubular shaped fibrous web of conventional form having an interior and exterior side wall impregnated with a coating composition (emphasis added; see column 6, lines 14-16). The coating composition comprises a viscose solution in the form of an admixture with a cationic polymeric adhering agent and protein for imparting cling properties for a food to be stuffed therein (emphasis added; see column 6, lines 16-20). The result is always a single tubular casing that does not have an outer and inner layer.

The Examiner also relies on Wielockx's disclosure of seasonings and spices, however, Wielockx's disclosure regarding seasonings and spices is directly solely in the context of their use in meat emulsion components that can be prepared from comminuted meat. Wielockx does not refer to the seasonings and spices as components that are supported and transported by an inner layer or second segment of a casing as positively recited in claim 1. There is no reason provided here why one of skill in the art would have employed any of the seasonings or spices from the meat emulsion of Wielockx in a food casing's inner layer or segment.

Indeed, Wielockx fails to disclose an inner layer and an outer layer at all. To wit, and as stated above, Wielockx discloses a coating composition developed to allegedly solve the problem of adherence/cling and release of the food by using a single layered tubular casing coated with an adhering agent and a polymer. As a result, Applicant respectfully submits the rejection of claims 1-20 is improper because the primary reference of Wielockx does not teach or even suggest a food casing comprising an outer casing and inner casing or segment as alleged by

the Examiner. Applicant respectfully requests that this rejection be withdrawn for at least this reason.

Huchel and Davis do not cure the aforementioned deficiencies of Wielockx. Huchel discloses a tubular food casing made up of a heat sealable material such as PVDC, polyethylene, polypropylene or coated cellulose (see column 2, lines 38 - 45). The casing of Huchel comprises a tear strip on the outside, which facilitates opening (see column 2, lines 2-12). Huchel does not teach or suggest an inner layer to support and transfer at least one food additive much less provide any motivation to combine Huchel's food casing with that of Wielockx in an effort to arrive at the currently claimed food casing.

Similarly, Davis teaches a film for vacuum packaging of food products, such as coffee (column 1, lines 7 - 9). The film may be a laminate having inner and outer wall layers and may be processed into a double-walled package (column 2, lines 50 - 59). Again, there is no indication that the inner layer could be capable of support and transfer of a food additive, such as liquid smoke, a colorant or the like, to an encased food product. Thus, by combining the teaching of Wielockx with that of Huchel or Davis, a person of ordinary skill in the art of making food packaging materials would not have arrived at the presently claimed food casing.

For the reasons set forth above, the rejection of claim 1-20 is improper and should be withdrawn because one of ordinary skill in the art would not have even considered the teachings of Wielockx in developing a tubular food casing capable of transferring food additives because Wielockx attempts to solve a different technical problem. Furthermore, the rejection is improper because Wielockx does not teach or even suggest a food casing having an inner tubular casing, much less one capable of support and transfer of food additives. Huchel and Davis do not cure this deficiency. Thus, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to modify the alleged sausage casing as disclosed by Wielockx to arrive at the food casing recited in claim 1. For at least these reasons, Applicant respectfully submits that a *prima facie* case of obviousness has not been established. Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-20.

CONCLUSION

Applicant believes the current claims are in condition for allowance. However, any comments or questions concerning the application can be directed to the undersigned at the telephone number given below.

Applicant does not believe any fees are due at this time, however, the Commissioner is authorized to charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket #: P179 1190.US).

Respectfully submitted,

Date: July 14, 2008

Susan E. Shaw McBee, Esq. Reg. No. 59,566

~~Susan E. Shaw McBee, Esq.~~
Registration No. 39,294
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037
Direct Phone: (703) 394-2276
Fax: (703) 790-2623
E-Mail:smcbee@wCSR.com